

REMARKS

Reconsideration of the objection and the rejections set forth in the Office Action dated November 2, 2006, is respectfully requested. In the Office Action, the Examiner rejected claims 34-53. Applicant therefore has canceled claims 34-53 and has added new claims 54-73. Accordingly, claims 54-73 are pending in the application. No new matter has been added by these amendments as can be confirmed by the Examiner.

- A. The Cited Prior Art References Do Not Disclose or Suggest Authenticating a Data Request Received upon Activation of a Hyperlink Transmitted to a User Computer System in an Electronic Mail Message and, if the Request Comprises an Invalid Data Request, Identifying the Data Request as Being Associated with a SPAM Electronic Mail Message and Providing the Provider Identification Code to an Invalid Response Database System as Recited in Claims 54-73.

In the Office Action, the Examiner rejected claims 34-41, 43-46, 48, 49, 52, and 53 under 35 U.S.C. § 103(a) as allegedly being rendered obvious by Bezos et al., United States Patent No. 6,029,141, in view of Messer et al., United States Application Publication No. 2004/0230491. Claims 47, 50, and 51 likewise were rejected as allegedly being rendered obvious by Bezos et al. in view of Messer et al. in further view of Angles et al., United States Patent No. 5,933,811; whereas, Bezos et al. in view of Messer et al. in further view of Herz et al., United States Application Publication No. 2001/0014868 were asserted as rendering claim 42 obvious. Applicant respectfully submits, however, that at least one recited element of new independent claims 54 and 65 is totally missing from the cited prior art references. Accordingly, new claims 54-73 are in condition for allowance.

In accordance with M.P.E.P. § 2142, the Examiner bears the initial burden of establishing a *prima facie* case of obviousness. "To establish a *prima facie* case of obviousness, three basic criteria must be met." (M.P.E.P. § 2143.) First, some suggestion or motivation in the prior art references or in the knowledge of one of ordinary skill in the relevant art must exist to modify or combine the references.

Second, if the references are combined, a reasonable expectation of success must be shown. Then, finally, all of the claim limitations must be taught or suggested by one reference or a combination of references. To establish a *prima facie* case of obviousness based on a single reference that does not teach all the elements of a claim, the Examiner must provide a rationale for modifying the teachings of the reference. See *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000), citing, *B.F. Goodrich Co. v. Aircraft Breaking Sys. Corp.*, 72 F.3d 1577, 1582, 37 U.S.P.Q.2d 1314, 1318 (Fed. Cir. 1996).

Independent claims 54 and 65 recite receiving a request for data content from a computer system, the request being provided upon activation of a hyperlink at the computer system and including an encrypted confirmation code ... wherein the hyperlink incorporates the encrypted confirmation code and is included in an electronic mail message transmitted to the user computer system by a content provider system. Claims 54 and 65 further recite that, if the request comprises an invalid data request, identifying the request as being associated with a SPAM electronic mail message and providing the provider identification code to an invalid response database system.

The Examiner acknowledges that Bezos fail to disclose tracking invalid data requests and relies solely upon Messer's teaching of tracking and auditing user requests for information to supplement the disclosure of Bezos. According to the Examiner,

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Messer's auditing both valid and invalid requests for information to Bezo's auditing requests for information. One would have been motivated to do this in order to provide prevent [sic, "to prevent"] fraud, provide better auditing and tracking of information requests, and to provide better commerce on the web.

The Examiner asserts that Messer discloses both: (1) determining invalid requests for information and tracing invalid requests for information; and (2) utilizing a

database and reporting for invalid requests. Various citations are offered to support the Examiner's assertion. For example, the Examiner relies on Messer's teaching that "[0006] It is still another object of the present invention to provide a vehicle for the detection of affiliate sponsored fraud; exemplary fraud of concern includes use of a process that employs a Javascript to artificially multiply the number of clicks, impressions and/or sales on a banner or similar promotional piece."

The Examiner, however, does not assert that Bezos or Messer, either individually or in combination, teach identifying an incoming data request as being associated with a SPAM electronic mail message as set forth in claims 54 and 65. In fact, Applicant notes that the term "SPAM" does not even appear in either Bezos or Messer. Bezos and Messer therefore do not disclose or suggest identifying an incoming data request as being associated with a SPAM electronic mail message. According, at least one recited element of claims 54 and 65 is totally missing from the cited prior art references. Applicant submits that claims 54 and 65 are not anticipated or rendered obvious by Bezos in view of Messer and that claims 54-73 are in condition for allowance.

B. The Cited Prior Art References Likewise Do Not Disclose or Suggest Identifying a Data Request as Being Associated with a SPAM Electronic Mail Message and Providing the Provider Identification Code to an Invalid Response Database System in Combination with Use of Computer identification Data that Expires as Recited in Claims 54-73.

Claims 54 and 65 further recite "an encrypted confirmation code that comprises a provider identification code, a computer identification code, and computer identification data, the computer identification data including current information for identifying the computer system and expiring in accordance with a predetermined criteria."

In the Office Action, the Examiner acknowledges that Bezos and Messer fail to disclose use of computer identification data that expires. As discussed above, the Examiner therefore relies on Bezos in view of Messer in further view of Angles to reject

cancelled claims 47, 50, and 51, which recited a user identification code that expires in accordance with a predetermined criteria. The Examiner asserts that Angles discloses the utilization of cookies and that cookies can be set to expire.

For at least the reasons set forth above, claims 54-73 are not anticipated or rendered obvious by Bezos in view of Messer in further view of Angles. As discussed above with reference to Bezos and Messer, Applicant notes that the term "SPAM" likewise does not appear in Angles. Neither Bezos, Messer, nor Angles disclose or suggest identifying an incoming data request as being associated with a SPAM electronic mail message. According, at least one recited element of claims 54 and 65 is totally missing from the cited prior art references. Applicant therefore submits that claims 54 and 65 are not anticipated or rendered obvious by Bezos in view of Messer in further view of Angles. Claims 54-73 are in condition for allowance, and a Notice of Allowance is earnestly solicited.

C. The Cited Prior Art References Likewise Do Not Disclose or Suggest Receiving a Data Request that Includes an Encrypted Confirmation Code, Identifying the Data Request as Being Associated with a SPAM Electronic Mail Message and Providing the Provider Identification Code to an Invalid Response Database System, Wherein the Confirmation Code is Encrypted in Accordance with a Selected Encryption Standard, as Recited in Claim 56.

Claim 56 recites that the confirmation code is encrypted "in accordance with an encryption standard selected from the group consisting of a Data Encryption Standard (DES), an Enhanced Data Encryption Standard (EDES), and an One-Way Hash Function (MD5) standard."

In rejected cancelled claim 42, the Examiner acknowledges that Bezos and Messer fail to disclose use of different encryption standards for secure communications. The Examiner therefore relies on Bezos in view of Messer in further view of Herz to reject cancelled claim 42. The Examiner asserts that Herz discloses the use of different encryption standards for secure communications.


Claim 56, however, depends from claim 54 and is not anticipated or rendered obvious by Bezos in view of Messer in further view of Herz for at least the reasons discussed above. In the manner set forth above with reference to Bezos, Messer, and Angles, Applicant notes that the term "SPAM" also does not appear in Herz. Further, the Examiner does not assert that Bezos, Messer, or Herz disclose or suggest identifying an incoming data request as being associated with a SPAM electronic mail message as recited in claim 56.

The Examiner therefore has not established a *prima facie* case under 35 U.S.C. § 103 because, as shown above, all of the elements of the pending claims are not found in the cited reference. For at least the reasons set forth above, it is submitted that claims 54-73 are in condition for allowance. A Notice of Allowance is earnestly solicited. The Examiner is encouraged to contact the undersigned at (949) 567-6700 if there is any way to expedite the prosecution of the present application.

Respectfully submitted,

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